

Nat. Cotton
Council

NCC Comments on Conservation Security Program Proposed Implementation Rules

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Conservation Operations Division,
Natural Resources Conservation Service,
P.O. Box 2890
Washington, DC20013-2890

Dear Sir:

The National Cotton Council of America is pleased to submit comments on proposed rules for the implementation of the Conservation Security Program (CSP) as provided for in the Food Security and Rural Investment Act of 2002.

The National Cotton Council is the central organization of the United States cotton industry. Its members include producers, ginner, oilseed crushers, merchants, cooperatives, warehousemen, and textile manufacturers. While a majority of the industry is concentrated in 17 cotton producing states, stretching from the Carolinas to California, the downstream manufacturers of cotton apparel and home furnishings are located in virtually every state.

The industry and its suppliers, together with the cotton product manufacturers, account for one job of every thirteen in the U.S. Annual cotton production is valued at more than \$5 billion at the farm gate. In addition to the fiber, cottonseed products are used for livestock feed, and cottonseed oil is used for food products ranging from margarine to salad dressing. While cotton's farm gate value is significant, a more meaningful measure of cotton's value to the U.S. economy is its retail value. Taken collectively, the business revenue generated by cotton and its products in the U.S. economy is estimated to be in excess of \$50 billion annually. Cotton stands above all other crop in its creation of jobs and its contribution to the U.S. economy.

General Comments

The Council commends the Natural Resources and Conservation Service (NRCS) for developing rules for implementing a new, far-reaching and complicated conservation program on a nation-wide basis. It is recognized that this task was made even more difficult due to a capped entitlement in the initial year of implementation and with unknown and changing funding levels.

Because of the complexity of the proposed regulation and the limited areas of participation, we are concerned that the initial reaction by producers to the CSP will be negative. We believe that many producers will determine that the potential benefits that could be derived from such a program will be offset by the complex requirements for application and inability to determine whether their contract will ultimately be approved. The challenge will be to overcome this discouragement by simplifying procedures to the extent possible.

In general the Council would urge that the regulation be simplified especially in relation to the initial selection criteria for eligibility. Also latitude should be given to State Conservationists and their staff to craft the program to meet the most pressing environmental and conservation needs in their state or regions of their state. To maximize the federal expenditure of conservation funding, the program should be applicable to commercial-size operations. The program should also be implemented on a diverse geographic basis in order to give a broad number of producers in as many regions as practical a good sense of how functional the program could be. We are concerned that too much emphasis is placed on soil and water quality rather than addressing other conservation concerns that may be applicable to various regions. Air quality, water and energy conservation, wildlife habitat and other environmental benefits, including area-wide pest management programs should be allowed as part of base practices and enhancement programs.

The establishment of initial eligibility based on the highest priority watersheds coupled with the application restrictions of only those producers who have achieved the highest level of conservation seems to be at cross purposes. It would appear that if the watersheds are prioritized on the basis of most impaired, it would stand to reason that there would be a limited number of producers who have met all of the basic requirements for soil and water quality. Using a more representative number of watersheds where good conservation practices have been implemented and thus are not as impaired, would seem to be a more practical approach to rewarding good conservation stewardship.

We have general concerns about the limited availability of technical assistance that will be provided by NRCS staff. This proposed rule will require NRCS to make a much wider range of eligibility decisions than any other conservation program to date. Consultations between the Farm Service Agency (FSA), which has broader experience in programs of this magnitude, and NRCS should be facilitated. To the extent possible, common eligibility provisions and definitions should be used to minimize the complexity of the CSP.

The Council urges that subsequent to the final regulation but before the program is open for sign-up, an extensive training program be conducted with NRCS personnel in all areas of the nation, regardless of the areas where the initial sign-up is conducted. We believe that it will also be critical that NRCS utilize to maximum extent third party technical providers to help with the CSP implementation. Such third party technical providers should be qualified and given adequate authority to guide producers through the application process.

Specific Recommendations

Definition of Agricultural Operation:

One of our main concerns is the definition of an agricultural operation. The proposed definition of an agricultural operation as "all agricultural land and other lands determined by the Chief, NRCS, whether contiguous or noncontiguous, under the control of the participant and constituting a cohesive management unit, where the participant provides active personal management of the operation," is too broad in scope and subject to inconsistent interpretation. This definition is also inconsistent with any description of an agricultural operation in any other conservation or farm

program. It would require a complicated eligibility determination process for NRCS that would present challenges to the agency and to producers.

Under the current definition this program would only be viable for small farmers who own contiguous property. In most Cotton Belt commercial-size farms, producers operate many different units with multiple landowners. These operations within a county are defined by common operators who must meet specific eligibility requirements, including definitions of active management, for federal farm programs. We would urge that NRCS, to the extent possible, maintain FSA operational definitions for use in the CSP program. This would facilitate eligibility determinations for the agency and the producer.

We are equally concerned about the proposed eligibility requirement that would require the applicant to have control of the land for the life of the CSP contract. Most rental arrangements in the Cotton Belt are on an annual basis. Annual contracts are currently more prominent with the annual signup requirements for the current farm bill. While multi-year rental contracts do take place, it would be unlikely that a tenant could ensure that he would have control of the land for a 5-10 year period at the time of application.

In the FAIR Act of 1995, the farming operation was required to enter into a 7-year contract. However such a contract did not require the same operator for the contract period. Instead FSA used succession in interest provisions that allowed a new tenant to qualify for benefits on the contract farm if he abided by the eligibility requirements applicable to the previous tenant. Such a provision could be applicable to the CSP program. Any new tenant could be required to continue the same program requirements as the initial participant in order to continue to remain eligible for benefits.

We contend that a requirement that the applicant have control of the land for the entire contract period at the time of application will severely limit the ability of commercial-size tenant producers to participate in this program.

Watershed Prioritization

We would prefer that all producers who have met basic eligibility requirements could apply for the CSP program regardless of the watershed in which their operation is located. One of the disconcerting aspects of this rule for producers is they have no idea if they would be eligible because no one knows which watersheds might be selected. It seems that only a very limited group of producers in very limited geographical areas, who have already made the commitment to all areas of conservation on all of their farming operations, will see any benefit.

We would recommend that rather than prioritizing the watershed for restricting eligibility, NRCS should select a geographic distribution of watersheds with diverse conservation experience. This process will be less arbitrary than the method proposed and would allow for input from State Conservationists as to which watersheds should be used for producer eligibility. This would also provide greater latitude in addressing diverse conservation needs and in recognizing significant conservation improvements. Regardless of the methodology, the initial watersheds selected should include all regions of the country with emphasis on the Cotton Belt in the interest of our membership.

Application Process:

The multiple levels of the application process will be one of the most confusing aspects of the CSP implementation. The understanding of the enrollment categories and sub-categories will need considerable explanation to applicants. The ranking of categories adds another level of inability to determine if one's application would be accepted. The development of specific examples of practices relative to each state or region will be beneficial.

Enrollment categories, if used, should be practical and tailored to meet the specific needs of the state or region of the state. In order to maximize federal conservation spending, we would urge that beginning farmer and limited risk farmers not be specified as a enrollment category, but rather some other method be determined to designate some funding to these special cases.

Funding Issues

More flexibility should be given State Conservationists in the funding priorities for the enrollment categories and sub-categories. Rather than strictly funding all projects in full based on some categorization, it may be more feasible to pro-rate funding across several participants with sound plans if such partial funding is enough to provide a significant enhancement incentive. On the other hand, limited funding should not be pro-rated to the extent that it merely offers "pennies on the dollar" and is not commercially-viable.

The proposed regulation places a disproportionate amount of the rental payment on enhancement activities rather than base or maintenance payments. One of the stated purposes of the CSP was to reward producers who were good conservation stewards based on practices already in place. While it is desirable to encourage further conservation enhancement, the proposed regulation provides that only 5-15% of the respective tier payments can be expended for base payments. We believe that to the extent allowable in the statute, a higher percentage of the rental payment should be made to producers who have accomplished conservation improvements. This is especially significant in the early stages of the program. After the program has matured and been made available to a wider range of producers, a higher percentage of the rental payments could go for enhanced practices. The Council contends this low percentage of base payment rental will discourage producers from participating in the CSP.

Because of our belief that the base payments represent too small a percentage of the total payment, we would also oppose any across-the-board scale down of such payments as a means to allocate limited funds.

In the allocation of limited funds, the Council recommends that priority be given to Tier I and II applications. These tiers appear to offer the greatest potential incentive to achieve conservation enhancement. While Tier III farms are certainly desirable from a conservation stewardship standpoint, the rigid application requirements will likely minimize the qualification of such farms.

We contend that NRCS should budget the CSP in a similar fashion to other multi-year contractual conservation programs. NRCS should extend contracts to the maximum amount of participants for each sign-up by allocating limited funding, if necessary,

based on the annual contract amount rather than the life of contract amount. These annual contractual obligations would have to be accounted for in determining additional contracts in future signups. This methodology would encourage broader participation particularly in the early stages of this program.

The National Cotton Council believes that the CSP can be an effective program which rewards conservation stewardship and promotes enhanced conservation in production agriculture. We would urge that in order to get the best conservation dollar investment, the program should be geared to commercial-size operations and that NRCS minimize administrative complexities by standardizing, to the extent possible, eligibility requirements in line with other USDA programs.

We appreciate the opportunity to provide these comments.

Sincerely,

Woody Anderson
Chairman, National Cotton Council



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March 2, 2004

Conservation Security Program Comments
Attn: David McKay
Conservation Operations Division
Natural Resources Conservation Service
P.O. Box 2890
Washington, DC 20013

Re: **Conservation Security Program:** Comment responding to Proposed Rule

Dear Mr. McKay:

Thank you for the invitation to comment on the Proposed Rulemaking for the Natural Resources Conservation Service's Conservation Security Program, *69 Fed. Reg. 193-224 (January 2, 2004)*. Trout Unlimited (TU) is the nation's leading coldwater fisheries conservation organization, with over 127,000 members nationwide, organized in 450 volunteer-led, local chapters in 35 states. Both the grassroots arm of the organization and our professional conservation staff are working on the ground collaboratively with agency partners and private landowners to implement conservation solutions that protect and restore our nation's watersheds. TU believes that the new Conservation Security Program has great potential to reward and promote improved conservation practices across the nation that will ultimately benefit clean water and stream and fishery health.

Last year, TU was pleased to sign a national Memorandum of Understanding with the NRCS, setting out our shared goal of stream and riparian habitat restoration through collaborative efforts. Recently we entered a new phase of partnership agreement and TU will be hosting a NRCS Senior Executive Service candidate. In addition, a number of TU field staff are working to become certified as Technical Service Providers to better facilitate delivery of Farm Bill conservation programs in our focus watersheds and raise awareness among our active volunteers about the conservation opportunities available in these programs.

Restore the Program to its Legitimate Nationwide, Comprehensive Entitlement Status

By far, the most important and critical issue needing immediate attention is to restore the Conservation Security Program (CSP) to its legitimate nationwide, comprehensive entitlement status. In order to achieve this, TU strongly recommends that NRCS eliminate or modify several components of the proposed rule given that the FY 2004 Omnibus Appropriations Act removed the funding limitation that had been put in place by the FY '03 Omnibus Appropriations Act. For example, TU strongly encourages NRCS to drop the watershed limitation and the enrollment

Trout Unlimited — America's Leading Coldwater Fisheries Conservation Organization
1500 Wilson Blvd., Suite 310 — Arlington, VA 22209
Phone 703/522-0200 — Fax 703/284-9400 — www.tu.org

"categories" limitation. Designating only a few watersheds and "categories" defeats the goal of CSP as a national conservation program. In addition, TU supports continuous rather than limited signups.

Begin Implementation of the Program as Soon as Possible

TU strongly encourages NRCS to issue guidance to the states allowing them to implement the program in FY 04 with the limited, start-up funding available in as simple and straightforward manner as possible. In our view, given limited dollars and very limited time in FY 04, the time and money that is available now would best be used to enroll a limited number of producers in each state in a manner that will allow state and local offices to gain enrollment expertise in the different regions within their boundaries. Such representative experience would assist with agency planning for implementing the full program in FY 05.

TU has extensive, on the ground conservation experience and is hopeful that NRCS can begin to implement CSP quickly so that the numerous eligible producers may begin to participate. We are certain that a great deal of demand exists for the CSP program. For example, in Utah, TU is participating in a Coordinated Resource Management Planning process in Rich County, which has suffered landscape degradation as a result of agricultural practices. Under this young program, local ranchers, state and federal agencies and selected conservation groups are developing projects to protect wildlife and riparian habitat and promote sustainable agricultural practices. Funding for the projects is a limiting factor. CSP funding for this cooperative initiative would allow more projects to be implemented and would encourage other areas of Utah to follow the bold model being established in Rich County.

Increase "New Practice" Cost-Share Percentages so Comparable with EQIP and WHIP

TU believes that the cost-share payments for "new practice payments" should be equal to or greater than the cost-share payments for other programs such as EQIP and WHIP. If indeed this program intends to "reward the best" then those enrolled should not be penalized by receiving lower cost-share payments for installing enhanced conservation practices than if they went through some of the other programs. The NRCS should make it as easy as possible for these already exemplary producers to further improve the conservation benefits of their operations.

No Limit on the Number of Contracts Held by a Producer

TU supports *not* imposing a limit on the number of contracts held by any one producer, or producers in a single area. Because of TU's strongly-held belief that the highest conservation benefit occurs when a number of conservation practices and restoration efforts are focused in a particular river basin or on a particular tributary, it does not make sense to limit the number of contracts held by one producer.

For example, TU's Garden Creek Project in the South Fork Snake River includes a wide array of extensive restoration and conservation work all located on one producer's land since it contains almost the entire length of this key tributary. Limiting the number of contracts that one producer can hold would limit the conservation benefit that could be realized by this and similar far-reaching and ambitious projects.

Renewable Contracts

TU also feels that CSP contract should be renewable. The intent of the CSP program is to provide ongoing conservation and security for our nation's natural resources, which would be undermined by prohibiting contract renewals. The ability to renew contracts, particularly through an expedited process, will provide even further incentive to "motivate the best".

Water Quality Significant Resource Concern Minimum Requirements for Tier I

Water quality is designated as one of the significant resource concerns that must be addressed to be eligible for enrollment in Tier I of the CSP program. Riparian buffers, cattle fencing, or well managed rotational grazing systems, should be part of the minimum requirements for meeting water quality concerns on an agricultural operation.

Enhancement Payments

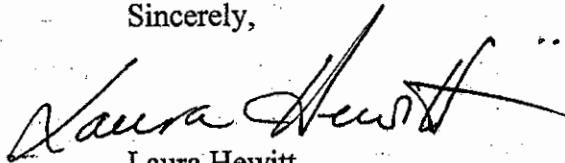
Enhancement payments should reward additional efforts and exceptional performance. TU applauds NRCS's decision to include on-farm research and demonstration projects and on-farm monitoring and evaluation projects as a category for enhanced payments. These practices should be strongly encouraged and should include compensation for the farmer's time and labor in addition to direct costs. In addition, we feel the following practices will result in significant positive conservation outcomes and should be incorporated as "enhanced practices" and added to the rule and adhered to.

- Implementation of resource conservation crop rotations or managed rotational grazing.
- Installation of riparian buffers on intermittent streams, springs, and ephemeral water bodies.
- Widened riparian buffers on steep slopes and sensitive soils.
- Restored connections between stream corridors and floodplains or wetlands.
- Stream restoration practices that emphasize soil bioengineering and natural channel design principles, including restoring meanders, natural channel geometry, and installing appropriate structures.
- Cooperation with neighboring landowners to improve or protect a stream corridor.
- Cooperation with neighboring landowners to improve irrigation efficiency to ensure improved or optimum stream flows.
- Return of "saved water" from improvements in irrigation efficiency back to in-stream flows.
- Removal of barriers to fish passage, such as improperly placed or sized culverts.
- Use of barriers and fish screens to prevent entrainment of fish in irrigation diversion structures but allow fish passage within the stream.
- Augmentation of stream flows during low flow periods.
- Control and treatment of return irrigation flows to promote clean water and provide wildlife and fishery benefits.

- Installation of remote cattle watering sites or hardened stream crossing to prevent erosion.
- Management of aquaculture systems that prevent the release of exotic species or the transfer of disease to natural systems and employ a nutrient management plan for downstream discharges.

Thank you for the opportunity to comment on the Conservation Security Program. We are optimistic that the resources and assistance available through this program can be used to have significant and lasting impacts on water quality and stream health. We also look forward to continuing to cooperate with NRCS through this and other programs. Please do not hesitate to contact me if you would like any further clarification on these comments.

Sincerely,



Laura Hewitt
Watershed Programs Director



Mike Clark
Western Water Project Director

Cc: * Bruce Knight, Chief
Craig Derickson, CSP National Program Manager
Dave White, MT State Conservationist